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Attorney's Docket N . U 011415-80 Rec'd PCT/PTO 29 JAN 1998 PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent application

of \_\_\_\_\_ inventor(s)

for \_\_\_\_\_ title of invention

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In re application of John WALKER, et al.

Serial No.: 08 /913,430

Group Art Unit: --

Filed: September 12, 1997

Examiner: --

For: ANTIGEN COMPOSITION AGAINST MYCOPLASMA

Assistant Commissioner for Patents  
Washington, D.C. 20231

TRANSMITTAL OF INFORMATION DISCLOSURE STATEMENT  
WITHIN THREE MONTHS OF FILING OR  
BEFORE MAILING OF FIRST OFFICE ACTION (37 CFR 1.97(b))

NOTE: "An information disclosure statement shall be considered by the Office if filed: (1) within three months of the filing date of a national application; (2) within three months of the date of entry of the national stage as set forth in § 1.491 in an international application; or (3) before the mailing date of a first Office action on the merits, whichever event occurs last." 37 CFR 1.97(b).

CERTIFICATE OF MAILING/TRANSMISSION (37 CFR 1.8a)

I hereby certify that this correspondence is, on the date shown below, being:

MAILING

☒ deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Date: January 23, 1998

FACSIMILE

☐ transmitted by facsimile to the Patent and Trademark Office.

Signature: CLIFFORD J. MASS

(type or print name of person certifying)

(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [8-3]—page 1 of 2)



01/29/98



**NOTE:** The "filing date of a national application" under 37 CFR 1.97(b) has two possible meanings. Where the filing is a direct one to the United States Patent & Trademark Office, the filing is defined in 37 CFR 1.53(b) as "the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.81(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41." 37 CFR 1.97(b)(1). On the other hand, an international application that enters the national stage occurs when the applicant has filed the documents and fees required by 35 U.S.C. § 371(c) within the periods set forth in § 1.494 or § 1.495. 35 U.S.C. § 371(c) requires the filing of the following: (1) the national fee; (2) a copy of the international application, unless already sent by the International Bureau, and an English translation if filed in another language; (3) amendments under PCT Article 19, with a translation into English if made in another language; (4) an oath or declaration; and (5) a translation into English of any annexes to the international preliminary examination report, if such annexes were made in another language. 37 CFR 1.97(b)(2).

### IDENTIFICATION OF TIME OF FILING THE ACCOMPANYING INFORMATION DISCLOSURE STATEMENT

The information disclosure statement submitted herewith is being filed within three months of the filing date of the application or date of entry into the national stage of an international application or before the mailing date of a first Office action on the merits, whichever event occurs last. 37 CFR 1.97(b).

**NOTE:** "No certification or fee is due when the filing is made within the above time period. It is advisable to ensure that no Office action has been mailed if the disclosure statement is delayed until after three months from filing.

**NOTE:** "An information disclosure statement will be considered to have been filed on the day it was received in the Office, or on an earlier date of a mailing if accompanied by a properly executed certificate of mailing under 37 CFR 1.8, or Express Mail certificate under 37 CFR 1.10. An Office action is mailed on the date indicated in the Office action." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**NOTE:** "The term 'national application' includes continuing applications (continuations, divisions, continuations-in-part) so three-months will be measured from the actual filing date of an application as opposed [sic] to the effective date of a continuing application." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**NOTE:** "An action on the merits means an action which treats the patentability of the claims in an application, as opposed to only formal or procedural requirements. An action on the merits would, for example, contain a rejection or indication of allowability of a claim or claims rather than just a restriction requirements (37 CFR 1.142) or just a requirement for additional fees to have a claim considered (37 CFR 1.16(d)). Thus, if an application was filed on Jan. 1 and the first Office action on the merits was not mailed until six months later on July 1, the examiner would be required to consider any proper information disclosure statement filed prior to July 1." Notice of April 20, 1992 (1138 O.G. 37-41, 39).

**WARNING:** "A petition for suspension of action to allow applicant time to submit an information disclosure statement will be denied as failing to present good and sufficient reasons, since 37 CFR 1.97 provides adequate recourse for the timely submission of prior art for consideration by the examiner." Notice of July 6, 1992 (1141 O.G. 63).

Reg. No.:

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(Transmittal of Information Disclosure Statement Within Three Months of Filing or Before Mailing of First Office Action [6-3]—page 2 of 2)

SIGNATURE OF ATTORNEY

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of: John WALKER, et al.

Serial No.: 08/913,430

Group No.: --

Filed: September 12, 1997

Examiner.: --

For: ANTIGEN COMPOSITION AGAINST MYCOPLASMA

Attorney Docket No.: U 011415-0

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

Sir:

**INFORMATION DISCLOSURE STATEMENT**

We draw the attention to the examiner to the attached English-language version of an International Search Report from a foreign office in respect of counterpart International Application No.: AU 96/00149 that indicates the degree of relevance found by the foreign office.

Additional English-language references are also attached.

Form PTO-1449 is also attached with reference copies, except

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**CERTIFICATE OF MAILING (37 CFR 1.8a)**

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231

CLIFFORD J. MASS

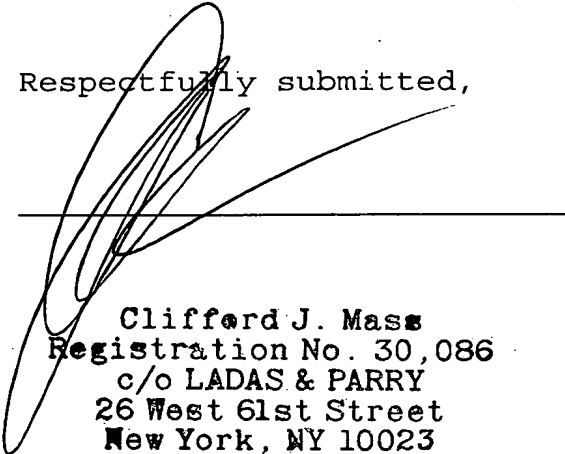
(Type or print name of person mailing paper)

Date: January 26 1998

(Signature of person mailing paper)

for AU 76820/91 and AU 49599/90, for which WO 91/15593 and WO 90/07935 are substituted.

Respectfully submitted,



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